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## ***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

*Customer No.:* 23643

*Group:* 1657

*Confirmation No.:* 1287

*Application No.:* 10/775,647

*Invention:* **Gastric Submucosal Tissue as a  
Novel Diagnostic Tool**

*Applicant:* Stephen F. Badylak et al.

*Filed:* February 10, 2004

*Attorney*

*Docket:* 3220-74581

*Examiner:* Vera Afremova

Electronically Filed:  
December 23, 2008

### **SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

Mail Stop Amendment  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Statement is filed in the application identified above pursuant to 37 C.F.R. § 1.56 and pursuant to the holdings of the Federal Circuit Court of Appeals in the cases *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir. 2003) and *McKesson Info. Sol'ns v. Bridge Med.*, 487 F.3d 897, 927 (Fed. Cir. 2007). No representation is intended that a complete search has been made of the prior art or that no better art references than listed below are available. Pursuant to 37 C.F.R. 1.98 (a)(2)(i), a copy of each U.S. patent reference and/or publication has not been provided; however, a copy of each foreign and/or other reference is provided for review by the Examiner. The filing of this Information

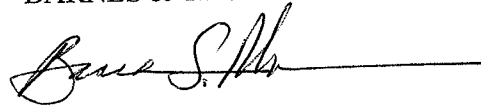
Disclosure Statement shall not be construed to be an admission that the information cited in the Statement is, or is considered to be, material to patentability as defined in §1.56(b).

In view of the *Dayco* and *McKesson* Federal Circuit decisions, the Examiner should be aware of related issued U.S. Patent No. 5,554,389 (cited as reference AH in the IDS filed on October 15, 2004) and U.S. Patent No. 6,099,567 (cited as reference AF herein). Applicants believe that the Examiner has access to the prosecution history for these cases. However, Applicants have included copies of Office Actions that were issued during prosecution of issued U.S. Patent No. 6,099,567. Copies of Office Actions that were issued during prosecution of issued U.S. Patent No. 5,554,389 are being obtained and will be provided to the Examiner at a later time. If the Examiner requires copies of any other papers in these prosecution history files, Applicants will provide them as requested.

Applicants believe that no fees are due with the filing of this statement, however if fees are due the Commissioner is hereby authorized to charge any amounts that may be due with this statement to our Barnes and Thornburg LLP Deposit Account No. 10-0435 with reference to our matter 3220-74581.

Respectfully submitted,

BARNES & THORNBURG LLP



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